

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF WYOMING

- - - - - x  
In Re: : 12-20834  
: (Chapter 7)  
RICH GLOBAL, LLC, :  
: Debtor. :  
- - - - - x

U.S. Bankruptcy Court  
2120 Capitol Avenue  
6th Floor  
Cheyenne, WY 82001

July 11, 2013

**TELEPHONIC HEARING RE:**  
**TRUSTEE'S MOTION TO APPROVE SETTLEMENT;**  
**AND OBJECTIONS THERETO**

BEFORE THE HONORABLE PETER J. McNIFF, JUDGE

APPEARANCES:

Chapter 7 Trustee:	TRACY ZUBROD, ESQ. 1907 House Avenue Cheyenne, WY 82001
For Debtor:	MARK E. MACY, ESQ. 217 West 18th Street Cheyenne, WY 82001
For Rich Dad Operating Company:	JOHN F. YOUNG, ESQ. 1700 Lincoln St., Ste. 1400 Denver, CO 80203
For Robert and Kim Kiyosaki:	JENNY M.F. FUJII, ESQ. 303 E. 17th Ave., Ste. 500 Denver, CO 80203
	PAUL HUNTER, ESQ. 2616 Central Avenue Cheyenne, WY 82001
For Learning Annex, et al.:	JAMES R. BELCHER, ESQ. 237 Storey Blvd., Ste. 110 Cheyenne, WY 82009

Proceedings recorded by electronic sound recording,  
Transcript requested 7/24/13 by *Marcus Williams*  
Transcript provided 8/9/13 by VERBATIM DIGITAL REPORTING, LLC  
Cost of Transcript: \$83.95 (\$3.65 ~ Ordinary)

*In Re Rich Global, LLC*

2

P R O C E E D I N G S

(Court called to order)

THE COURT: Good morning, this is Judge McNiff.

This is our first 8:30 matter today. The case is 12-20834. This is Chapter 7. The name of the case is Rich Global, LLC.

The particular matter before the Court today is a hearing on the Trustee's Motion to Approve the Settlement. We have an objection filed by Rich Dad Operating Company, an objection filed by Mr. and Mrs. Kiyosaki, and I believe we have an objection filed by Learning Annex, et al.

And so what we need to do is to get the appearances of the parties. Let's -- let's begin with counsel for the movant here, and our trustee, Ms. Zubrod.

MS. ZUBROD: Good morning, Your Honor. Tracy Zubrod, Chapter 7 Trustee, 1907 House Avenue, Cheyenne, Wyoming 82001, phone number is, 307-778-2557.

THE COURT: Thank you. On behalf of Rich Dad. I believe it's Mr. Young this morning.

MR. YOUNG: Good morning, Your Honor. John Young on behalf of Rich Dad Operating Company. My address is 1700 Lincoln Street, Denver, Colorado.

THE COURT: All right. On behalf of Mr. and Mrs. Kiyosaki, we know that Ms. Fujii is with us today and Mr. Hunter, I believe. Who's going to handle the matter?

1 MS. FUJII: Good morning, Your Honor. Jenny Fujii  
2 appearing on behalf of Robert and Kim Kiyosaki. I believe  
3 that our office will handle the matter this morning.

4 THE COURT: Okay. Are you with us, Mr. Hunter?

5 MR. HUNTER: Yes, thank you, Your Honor. Would you  
6 like me to enter my appearance?

7 THE COURT: I would.

8 MR. HUNTER: Okay. Paul Hunter appears as counsel  
9 for the Kiyosakis. My address is 2616 Central Avenue here  
10 in Cheyenne, Wyoming. Thank you.

11 THE COURT: We have another opposing party here,  
12 Learning Annex et al. I believe that's Mr. Belcher, please.

13 MR. BELCHER: Good morning, Your Honor. Jim  
14 Belcher with the law firm Belcher & Boomgaarden, LLP, 237  
15 Storey Boulevard, Suite 110, Cheyenne, Wyoming 82009.  
16 Learning Annex does not oppose this, Your Honor. Learning  
17 Annex is a party to the settlement and supports the  
18 trustee's Motion.

19 THE COURT: So, you support?

20 MR. BELCHER: Yes.

21 THE COURT: Okay.

22 MR. BELCHER: It filed a reply to the objections of  
23 Rich Dad Operating Company and the Kiyosakis.

24 THE COURT: Okay. Well, we'll -- we'll save a spot  
25 for you.

1 MR. BELCHER: Okay, thank you.

2 THE COURT: Let's go the -- let's go to the  
3 participating debtor here. I believe Mr. Mark Macy's with  
4 us today. Mr. Macy?

5 MR. MACY: Good morning, Your Honor. Mark Macy,  
6 217 West 18th Street, Cheyenne, Wyoming, appearing on behalf  
7 of Rich Global, the debtor. We filed a joinder in the  
8 objection.

9 THE COURT: Okay. Well, boy, this is -- this has  
10 been quite a deal here. Let's go to Ms. Zubrod first. What  
11 have you done, and what has happened, Ms. Zubrod?

12 MS. ZUBROD: Thank you, Your Honor. The Court  
13 might recall, we had a hearing on May 2nd, 2013. And at  
14 that time, the estate has moved to abandon the pending  
15 litigation that was identified on the Statement of Financial  
16 Affairs, and specifically, this appeal, that now we are  
17 asking the Court to approve the sale off.

18 Several parties disagreed at that time with the  
19 trustee's motion, some citing the appeal's not property of  
20 the estate, other's stating that there's no legal authority  
21 to abandon the appeal. And then another said that it's not  
22 property because it wasn't identified in the Schedules.

23 The Court suggested at that hearing that the  
24 objecting parties try to purchase the interest, and I think  
25 the Court used some phrase such as, if you had skin in the

1 game, then you need to pony up. And that's what happened  
2 here. The Learning Annex decided to make an offer and has  
3 since ponied up to purchase the estate's interest in this  
4 estate asset.

5 I did receive this morning Mr. Macy's objection  
6 that he filed sometime last night. I would note since there  
7 has been enough time to file a formal response with the  
8 Court, that paragraph three of his objection, that there are  
9 several misstatements of fact, specifically regarding the  
10 bidding procedures for the auction that was to be held.

11 There were bidding procedures put in place.  
12 Unfortunately, Learning Annex and Rich Dad Operating would  
13 not agree with the procedures. And unless the estate agreed  
14 to follow either one or the other procedures, no one was  
15 going to participate.

16 And so each side had a nonnegotiable position on  
17 the bidding procedures, so that is why the auction never  
18 occurred. And I think that when we had the hearing on May  
19 2nd, 2013, Mr. Macy was not present at that hearing, so he  
20 would not have had the benefit of the Court's direction  
21 regarding trying to sell this asset.

22 So we're here today, having followed the Court's  
23 advice. Learning Annex has made an offer. We're asking the  
24 Court to approve that settlement. We think it's in the best  
25 interest of the estate to bring in money for the benefit of

1 the creditors, even if there are only two creditors that  
2 have filed Proofs of Claim in this case. But that is what  
3 we're seeking to accomplish today. Thank you.

4 THE COURT: All right. Mr. Belcher, in a  
5 supporting mode here. Where are we with you, sir?

6 MR. BELCHER: Well, Your Honor, first off I want  
7 to make it clear what's going on here. Learning Annex  
8 agreed to settle this litigation. There's been mentioned,  
9 both in some of the objections of some of the parties and,  
10 if I understood the trustee's comments, on the sale of this  
11 asset. It's not an asset, and it's settlement of  
12 litigation.

13 Your Honor, I think Learning Annex's position is  
14 discussed in detail in its reply to the Kiyosaki and Rich  
15 Dad Operating Company objections. I discovered this morning  
16 when I got to work that the debtor had filed an untimely --  
17 untimely objection last night. The trustee's motion set a  
18 June 21st written objection deadline, which is weeks ago.  
19 So I assume that this is just another one of the Kiyosaki's  
20 move to see if they can't lawyer up a little more.

21 The applicable law that governs this is discussed  
22 in Learning Annex's reply, as well as the analysis of the  
23 trial court that Rich Dad Operating asked the trustee to  
24 appeal. And I'm not going to get into that in detail today.

25 In summary, this is Learning Annex's position. The

1 trustee has discretion to settle the appeal, and this Court  
2 is only -- its role is not to second guess the trustee's  
3 discretion, but to see if the trustee's judgment is  
4 reasonable.

5 Your Honor, if the Court were not to accept the  
6 trustee's agreement to enter into the settlement with  
7 Learning Annex, it would, first, forego a \$100,000 payment  
8 that Learning Annex has offered to settle this; secondly, it  
9 would require the estate to fund the cost to appeal; and  
10 third, it would delay resolution of this Chapter 7 case.

11 Your Honor, this appeal is not an asset and Section  
12 363 of the Bankruptcy Code standards do not apply. And that  
13 -- that discretion about this being an asset was fully  
14 briefed in the previous objection by Learning Annex to the  
15 trustee's abandonment of this litigation.

16 Your Honor, further, the auction that now the  
17 Kiyosaki Group, which consists of Rich Dad Operating  
18 Company, which is both the owner of the debtor, and an  
19 alleged creditor, at least it's filed a Proof of Claim, and  
20 the Kiyosakis who are not parties-in-interest in this case,  
21 Your Honor, they are the owners of Rich Dad Operating. They  
22 are not creditors of this debtor, they are not owners of  
23 this debtor and, frankly, are not interested parties for  
24 that reason, but continue to file things with the Court that  
25 they don't -- what they are proposing is not the same as

1 settlement of the litigation. So we're talking about two  
2 different things here. They want to treat it as an asset.

3 I'm going to ask the Court to ignore the debtor's  
4 untimely objection for that reason. And there's no  
5 opportunity to even explore it. It was filed at 9:00  
6 o'clock last night, but I assume that's just so that the  
7 Kiyosakis could have one more set of attorneys participate  
8 in the hearing this morning.

9 Your Honor, I'd like to briefly go through the  
10 standards that govern settlement and the citations of law in  
11 Learning Annex's reply. The standard is the lowest point in  
12 the range of reasonableness. And the factors that the Court  
13 is to consider is probably a probability of success on  
14 appeal. And the papers that Learning Annex has filed show  
15 that statistically less than 10 percent of appeals in the  
16 Second Circuit are successful.

17 The legal arguments that these -- the Kiyosaki  
18 group wants the trustee to raise have been twice rejected by  
19 the trial court in two separate jury trials, and so they  
20 want a third bite at the apple. And the trial court's  
21 statements in its order on a -- the Motions to Stay the  
22 Judgment, was not high probability of success, whether the  
23 Kiyosaki group has misstated what the trial court said, and  
24 that court's orders in -- before the Court has been  
25 submitted as exhibits by all the parties.



1           We also have a complexity and expense of  
2 litigation, Your Honor, that as I said, this has been to two  
3 different juries who ruled that Learning Annex is entitled  
4 to \$23 million for wrongful conduct by this debtor in taking  
5 the business proposal, and running with it and making  
6 profit.

7           So if you go through two jury trials, Your Honor,  
8 it's just an indication of the complexity that's already  
9 transpired in this.

10           Your Honor, this estate also has no funds to fund  
11 litigation expense. This is -- they have zero dollars in  
12 cash. It has some promissory notes that are payable by the  
13 Kiyosakis who managed to take all of the cash from this  
14 debtor, and also under their control, assigned all of the  
15 revenues and all of the assets of this debtor to related  
16 parties. So this estate has no money to fund litigation.

17           The value to the estate by participating and  
18 agreeing to the settlement, which the trustee chose to do,  
19 with a -- to, in fact, accept the \$100,000 cash payment. So  
20 it will actually generate an asset.

21           The last factor is interest of creditors. The  
22 appeal can benefit only one creditor, Your Honor, that's the  
23 debtor, and the debtor's owner, Rich Dad Operating Company.  
24 They've chose to file for bankruptcy so they can use the 362  
25 stay to avoid posting an appeal bond.

1           The second aspect of this, Your Honor, is what  
2     these parties are proposing is an auction. And again, I  
3     want to go back to prior briefing, settlement of an appeal  
4     is not estate property. It's been fully briefed in the  
5     trustee's abandonment proceedings.

6           And I might point this out to the Court, Your  
7     Honor. The Kiyosakis agreed in their objection to the  
8     trustee's abandonment, they said a judgment is a liability  
9     of this asset. It's not an asset with any value. Thus,  
10    Your Honor, Section 363 approval standards do not apply, and  
11    that's the foundation for the objections that they raised  
12    before the Court today.

13           Let me turn to the auction that's been proposed by  
14    Rich Dad Operating and the Kiyosakis; it's both unwarranted  
15    and improper. What they're proposing to the Court, Your  
16    Honor, is that the Court ought to order an auction of this  
17    appeal. And, Your Honor, to the best of my knowledge, the  
18    only person with standing to appeal are the parties to the  
19    underlying litigation, which in this case is the debtor.  
20    The debtor cannot, doesn't have any money to not only fund  
21    the appeal, but to buy the appeal, to participate.

22           So what they're suggesting to the Court is that a  
23    party that was not a party to the underlying litigation,  
24    becomes the party by purchase of this appeal in the Second  
25    Circuit. And there's no case law and no authority for that.

1 Only interested parties have standing to appeal.

2 And so what they're suggesting to the Court is that  
3 the Court allow an auction to go forward and somehow that  
4 will give them standing to appeal this in the Second  
5 Circuit. And I suggest, Your Honor, there's no authority  
6 for that. And that's -- that's why this whole auction  
7 concept is just a method that they proposed to see if they  
8 can't out-muscle Learning Annex who's had to go through two  
9 jury trials to obtain a \$23 million judgment.

10 I mentioned to the Court, and I'd refer the Court  
11 to Docket No. 71 where the Kiyosakis took the position that  
12 this litigation is claims against the estate. And I'm going  
13 to quote what they said to the Court on that, Your Honor.  
14 They said, "Litigation has no monetary value to the estate."  
15 Now, they said that in May and now they've got the opposite  
16 view. And so the Court should just be aware that they're  
17 changing their spots.

18 I might also point out, I think the trustee used  
19 the phrase that the Court suggested, having skin in the  
20 game. Your Honor, Rich Dad Operating suggested in a letter  
21 to the trustee that they would indemnify the estate for  
22 costs and expense of litigation. They did not make any  
23 offer to the estate to give money to the estate. They only  
24 said, well, we will protect you from reasonable costs of  
25 appeal.

1           Reasonable cost of appeal is meaningless. The  
2     estate doesn't have cash to pay the costs and attorneys'  
3     fees, and that would expose the estate to unrecoverable  
4     costs and expenses if there was a dispute over  
5     reasonableness. So if they got into that and someone would  
6     define that some of the costs or expenses that the estate  
7     incurred were not reasonable, then the estate would be in a  
8     position where it had suffered costs and expenses on this  
9     appeal that it couldn't recover.

10           And so what we have is, in concept, nothing more  
11    than a facade by Rich Dad Operating saying, well, you go  
12    ahead and do this and we'll protect you, but only if we  
13    determine that it's reasonable.

14           The last thing I think along those lines, Your  
15    Honor, there was some mention by Ms. Zubrod of the history  
16    of the auction in this case. Rich Dad Operating and the  
17    Kiyosakis want to dictate what and how the trustee makes and  
18    accepts offers.

19           The last time we went down this road, the trustee  
20    offered to sell promissory notes payable by the Kiyosakis,  
21    and my client was willing to purchase those and -- Kiyosakis  
22    and Rich Dad's, so they wouldn't participate because there  
23    weren't some releases of third parties involved in the  
24    auction. And so it failed of -- of its own weight.

25           So I guess to summarize, Your Honor, settlement is

1 in the best interest of the estate, just as the trustee and  
2 Learning Annex have agreed. They've allowed \$100,000 in  
3 cash. It will eliminate any expense to the estate. It will  
4 eliminate delay in administering the case, and it will  
5 provide certainty.

6 The debtor's twice made arguments that it wants to  
7 make the Appellate Court. It's twice made that in the trial  
8 court and been rejected, and less than 10 percent of Second  
9 Circuit appeals are successful.

10 Consequently, Your Honor, Learning Annex asks the  
11 Court to approve the trustee's Motion to Approve Settlement.

12 THE COURT: All right. I turn to Mr. Young,  
13 please.

14 MR. YOUNG: Thank you, Judge. First of all, the  
15 objection by Rich Dad Operating Company is essentially  
16 two-fold. One, because the motion is framed as a motion  
17 under Rule 9019 as a Motion to Approve the Settlement, the  
18 trustee and the Court ultimately needs to have evidence  
19 before it to support the settlement, and Rich Dad Operating  
20 Company objects on the basis that there's just insufficient  
21 evidence at this point to approve the settlement.

22 There's been no explanation or evidence put forward  
23 as to why \$100,000 is an appropriate settlement figure in  
24 regard to this appeal of the judgment of Learning Annex. So  
25 the parties and the Court is just left to guess as to how

1 this \$100,000 figure was arrived at and what, you know, what  
2 went into the determination of that figure.

3 There's also no evidence or explanation before the  
4 Court and the creditors here as to what the trustee views as  
5 the costs and expense of pursuing the appeal. So what --  
6 what is being -- there's no explanation as to what's being  
7 saved in deciding not to pursue the appeal.

8 And then, as Mr. Belcher has eluded to and as we  
9 have set forth in our objection, the Rich Dad Operating  
10 Company is offering to reimburse the estate, or indemnify  
11 the estate, for the fees and costs incurred in pursuing the  
12 appeal. And we're kind of at a loss to understand why we  
13 haven't received any inquiries as to why the trustee  
14 wouldn't pursue that avenue. We sent a letter, but simply  
15 have not received any inquiries or response as to the  
16 pursuit of that appeal and our offer to reimburse the estate  
17 for that.

18 Mr. Belcher also references that it's not really a  
19 hard offer, but the letter sets forth the offer. And second  
20 of all, he claims that the estate would be incurring costs  
21 and would have no money to pay those costs, but the  
22 mechanisms in the bankruptcy case would be such that if the  
23 appeal were pursued, the attorney pursuing that appeal  
24 obviously would need to file fee applications with this  
25 Court and there would be a determination as to the

1     reasonableness of the fees, and the Rich Dad Operating  
2     Company offer incorporates that concept when it says, we  
3     will indemnify the estate for reasonable fees.

4             So it's an offer, and it's an offer that we don't  
5     think has been considered in this process. And frankly,  
6     given that there's two competing offers in regard to the  
7     appeal, we believe the better approach in this case, and the  
8     analysis that should be undertaken is more along the lines  
9     of a 363 sale.

10            And -- but there should be at least a consideration  
11    or procedures put in place so that a competing offer can be  
12    made for this right to appeal the judgment by the debtor.  
13    And we don't think that there's been sufficient  
14    consideration of competing offers in this -- in regard to  
15    this appeal. And there's should be some procedure where the  
16    other folks, like my client and the Kiyosakis, could  
17    participate in a process that would maximize the value of  
18    this appeal to the estate instead of just a one-sided  
19    settlement process where none of the other participants get  
20    to participate, and it's only up or down approval of a  
21    settlement agreement.

22            So for the reasons set forth in our objection, we  
23    think the better approach is for the trustee to consider  
24    competing proposals for this right to appeal. And also we  
25    don't believe there is sufficient evidence before the Court

1 a this point to approve the settlement motion that's before  
2 the Court. So Rich Dad Operating Company would request that  
3 this Court deny the motion at this time.

4 THE COURT: Ms. Fujii, please.

5 MS. FUJII: Thank you, Your Honor. Much ado has  
6 been made about whether or not the Kiyosakis have standing  
7 to even object to the proposed settlement agreement in this  
8 case. And as Your Honor probably knows, based upon all the  
9 documents and pleadings filed in this case, the Kiyosakis  
10 are the owner of the creditor, Rich Dad Operating Company.  
11 And as equity holders of a creditor in a case in which the  
12 trustee is attempting to generate funds or surplus in  
13 distributions to the estate, we believe the Kiyosakis do  
14 have standing in order to maximize the value to the estate.

15 And I believe, Your Honor, what's evident from the  
16 objections filed by Rich Dad Operating Company, is that the  
17 trustee really hasn't looked very carefully or didn't appear  
18 to have analyzed the merits of the appeal on a subjective  
19 standard. What she's done, as far as I can tell, is look at  
20 the statistics.

21 Well, less than 10 percent of the appeals in the  
22 Second Circuit have been overturned, and that might be true.  
23 But the true analysis, Your Honor, I believe, is -- is that  
24 the trustee has a duty to the estate to really analyze what  
25 these claims are in the appeal and not just go by an



1 objective standard of what is the percentage of appeals that  
2 are successful in this particular court. I don't think  
3 that's proper. And I think really the trustee has not set  
4 forth her true arguments as to why the \$100,000 settlement  
5 is sufficient and is the true fair market value of this  
6 particular claim.

7 Now the Learning Annex also argues that this --  
8 this is not property of the estate. The trustee's interest  
9 in the appeal is not something that can be sold. Well, the  
10 trustee herself, in her Motion for Sale, she refers to this  
11 particular interest of the debtor as an interest -- she says  
12 in paragraph 4 of her motion, that the trustee proposes to  
13 blend in any interest that the bankruptcy estate may have in  
14 certain litigation. She also refers in paragraph 9 of her  
15 motion that the estate has the right of an appeal.

16 So the trustee's own terminology of what, in fact,  
17 she is settling, appears to be somewhat in terms of being an  
18 asset of the estate. I don't know if the Court has actually  
19 determined whether or not this is an asset of the estate. I  
20 think what's most important here is that the Court needs to  
21 look at whether or not all of the factors on whether the  
22 settlement is reasonable or not, and whether all of factors  
23 have been analyzed by the trustee.

24 Learning Annex argues that the settlement will be  
25 great for the estate because it will eliminate any

1 administrative costs relating to the appeal. Well, as  
2 testified by Mr. Young, as stated by him just a few minutes  
3 ago, the Rich Dad Operating Company was willing to cover the  
4 reasonable costs of the appeal as set forth through a fee  
5 application process in the Chapter 7 bankruptcy estate.

6 So really if the Court denies approval of the  
7 settlement agreement, it doesn't -- it's not going to cost  
8 the estate anything to pursue the appeal. So I think that  
9 that statement that the settlement agreement is going to  
10 eliminate administrative costs really has no bearing in this  
11 matter based upon the fact that the costs are going to be  
12 covered by a third party.

13 The last thing I want to say, Your Honor, is that  
14 based upon the trustee's duty to maximize recovery for all  
15 creditors in this case, that the Court should either deny  
16 approval of the settlement agreement outright and/or set  
17 forth some kind of procedure to see what the maximum value  
18 of this particular interest that the estate has in the  
19 appeal is, and really generate the fair market value. The  
20 Court really shouldn't allow the trustee to sell this  
21 particular interest of the estate at a lowball offer instead  
22 of setting forth procedures to maximize the value.

23 And apparently there has been some issues with the  
24 trustee, Ms. Zubrod, in setting forth auctioning procedures.  
25 So if, in fact, Your Honor goes down that road of requiring

1 an auction, I think the parties could request the Court's  
2 assistance in setting forth some of the standards in order  
3 to actually facilitate the auction.

4 Based upon that, Your Honor, the Kiyosakis believe  
5 that the settlement agreement should not be approved, first  
6 off. And second, if this Court believes that the claim has  
7 any value and if Learning Annex believes that, you know,  
8 this \$100,000 is the best and most fair way to settle the  
9 claims of the estate, then truly set it out for bidding  
10 process and generate and see how much funds this particular  
11 claim of the estate can generate for all the creditors.

12 Thank you.

13 THE COURT: I'm kind of at a loss, Ms. Fujii, I  
14 thought that's what we did.

15 MS. FUJII: I'm sorry?

16 THE COURT: Well, it's just a comment.

17 Let's go to Mr. Macy. And I know that Mr. Macy's  
18 position here is opposed by Mr. Belcher. I'm going to  
19 overrule Mr. Belcher's oral motion to not allow Mr. Macy's  
20 input here, because I believe that we're in the beginning of  
21 this situation.

22 It involves, apparently, a great deal of money and  
23 a great deal of gnashing of teeth, et cetera. And I believe  
24 that the Court needs all the information it can get. But I  
25 would indicate to Mr. Macy that this is an exception, not a

1 rule. Mr. Macy?

2 MR. MACY: Thank you, Your Honor. And I appreciate  
3 the opportunity here, and I apologize for filing this late.  
4 The -- it's one of those situations where you wake up in the  
5 middle of the night and you find an argument that may make  
6 sense in this and for the benefit of the parties here.

7 We didn't advance any new arguments that had not  
8 already been made and I won't readdress those. The only  
9 argument that was new on our part is the issue of whether or  
10 not the sale of an appeal is against public policy.

11 From our standpoint, Your Honor, and contrary to  
12 the Learning Annex's claim, we do operate independently of  
13 any other parties. My contact has been solely with my  
14 people at Rich Global. And so our issue is that a sale of  
15 an appeal really is against public policy.

16 There are -- I've cited some brief authority in  
17 which -- the cases in which appeals or causes of actions  
18 have been held to be against public policy.

19 And the basis of our argument here is that it takes  
20 away Rich Global's ability to fight on the underlying  
21 merits. The sale of ability to -- to end the litigation  
22 where on appeal it could be heard on the merits, and where  
23 the judge has said that there is a viable and -- viable  
24 action on appeal.

25 We think it should go forward on our part. And the

1 reason why, of course, is because the appeal, if successful,  
2 could end certainly a large amount of the debtor's liability  
3 and that is significant. And it's not every -- it's not  
4 every day that cases on appeal aren't overturned. There are  
5 several. And I think every attorney in this proceeding has  
6 won a case on appeal.

7 So without advancing the -- and without reiterating  
8 the other arguments, I would just point the Court to a  
9 couple of situations where public policy, the facts on  
10 public policy which we cited in our brief, is a situation in  
11 which a debtor had a medical -- or had a legal malpractice  
12 claim against -- against a certain attorney. And the  
13 insurance company for that attorney actually bought that  
14 legal malpractice case. And in that case, the court said  
15 that that was against public policy and should be considered  
16 that, because it's taking away the debtor's right to appeal  
17 that or the -- taking that right away from him really is  
18 gerrymandering the rights of the parties and shouldn't be  
19 allowed.

20 So there are situations in which the Court should  
21 consider whether or not the appeal should be sold at all.  
22 And we just ask that the Court consider that in its final  
23 determination on whether to approve this settlement.

24 That's all I have, Your Honor, thank you.

25 THE COURT: All right. Well, Ms. Zubrod, I'm going

1 to give you an opportunity to briefly reiterate your  
2 thoughts after hearing what the parties have stated.

3 Ms. Zubrod, please?

4 MS. ZUBROD: Yes, Your Honor.

5 Again, I think the Court made it very clear, it  
6 came across to me loud and clear, that if folks were  
7 interested in purchasing this asset or interest of the  
8 estate, this litigation or appeal, then they needed to make  
9 an offer.

10 And the estate received that offer from Learning  
11 Annex. And there were numerous discussions back and forth  
12 about that number, and nobody else approached the estate,  
13 except for Rich Dad, but they -- they didn't come forward  
14 with an offer, per se.

15 If Learning Annex and the estate, we're talking in  
16 terms of apples and apples, they came to the table with an  
17 orange and it just, quite frankly, it just didn't make any  
18 sense.

19 The estate is always happy to take as much as  
20 possible to, as Ms. Fujii said, maximize recovery for the  
21 creditors. That's what the estate is in the business of  
22 doing. And Learning Annex came to the table to do that and  
23 no one else did.

24 And so we're here to ask the Court to allow that  
25 settlement to proceed so that we can get on with the

1 administration of this case.

2 THE COURT: Well, thank you all very much. It's  
3 been an interesting morning. We will, of course, take now  
4 what we've heard in the presentations and all of the things  
5 that have been sent to us and make our decision. And we'll  
6 take it under advisement and we'll issue our order in due  
7 course.

8 Thank you all very much, I appreciate it. We'll be  
9 at recess.

10 (Hearing adjourned at 11:10 a.m.)

11 \* \* \* \* \*

**CERTIFICATE**

I certify that the foregoing is a correct partial transcript from the electronically recorded **TELEPHONIC HEARING RE: TRUSTEE'S MOTION TO APPROVE SETTLEMENT; AND OBJECTIONS THERETO**, held on July 11, 2013, U.S. Bankruptcy Court, 2120 Capitol Avenue, 6th Floor, Cheyenne, WY 82001, in the above-entitled matter.

August 9, 2013

  
Julie Lord  
Verbatim Digital Reporting, LLC  
3317 W. Layton Ave.  
Englewood, CO 80110  
(303) 915-1677